

Exhibit A

STATE OF WISCONSIN**CIRCUIT COURT****BROWN****PIT ROW, INC. et al vs. COSTCO WHOLESALE CORPORATION****Electronic Filing Notice**

Case No. 2020CV000413

Class Code: Unclassified

FILED**03-30-2020****Clerk of Circuit Court****Brown County, WI****2020CV000413****Honorable Kendall M.****Kelley****Branch 4**

**COSTCO WHOLESALE CORPORATION
301 S. BEDFORD ST, STE 1
C/O CT CORPORATION SYSTEM, REGISTERED AGENT
MADISON WI 53703**

Case number 2020CV000413 was electronically filed with/converted by the Brown County Circuit Court office. The electronic filing system is designed to allow for fast, reliable exchange of documents in court cases.

Parties who register as electronic parties can file, receive and view documents online through the court electronic filing website. A document filed electronically has the same legal effect as a document filed by traditional means. Electronic parties are responsible for serving non-electronic parties by traditional means.

You may also register as an electronic party by following the instructions found at <http://efiling.wicourts.gov/> and may withdraw as an electronic party at any time. There is a \$20.00 fee to register as an electronic party.

If you are not represented by an attorney and would like to register an electronic party, you will need to enter the following code on the eFiling website while opting in as an electronic party.

Pro Se opt-in code: 119f09

Unless you register as an electronic party, you will be served with traditional paper documents by other parties and by the court. You must file and serve traditional paper documents.

Registration is available to attorneys, self-represented individuals, and filing agents who are authorized under Wis. Stat. 799.06(2). A user must register as an individual, not as a law firm, agency, corporation, or other group. Non-attorney individuals representing the interests of a business, such as garnishees, must file by traditional means or through an attorney or filing agent. More information about who may participate in electronic filing is found on the court website.

If you have questions regarding this notice, please contact the Clerk of Circuit Court at 920-448-4155.

**Brown County Circuit Court
Date: March 31, 2020**

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03-30-2020
Clerk of Circuit Court
Brown County, WI
2020CV000413
Honorable Kendall M.
Kelley
Branch 4

STATE OF WISCONSIN
BROWN COUNTY
CIRCUIT COURT

PIT ROW, INC.,
2590 UNIVERSITY AVE
GREEN BAY , WI 54311-5850,

NICOLET GAS, INC.
2260 Nicolet Drive
Green Bay, WI 54311

Case no. 20-CV-
Classification Code 30703

S & K FOOD MART, INC.
1480 Lime Kiln Road
Green Bay, WI 54311

BELLEVUE GAS, INC.
1356 Bellevue Street
Green Bay, WI 54311

EVEREST MART, INC.
1501 S. Webster Ave.
Green Bay, WI 54301

BADIMAALIKA, LLC
1465 University Ave.
Green Bay, WI 54302

TIKAPUR PETROLEUM, LLC
2115 Main Street
Green Bay, WI 54302

SINGHS C STORE 2, INC.
952 W. Mason Street
Green Bay, WI 54303

RAN-DI ENTERPRISES, LLC
612 Military Ave.
Green Bay, WI 54304

JAGUAR STATION, LLC
2300 S. Ridge Road
Green Bay, WI 54304

GCS OPERATIONS, LLC

1275 Glory Road
Green Bay, WI 54304

GCS Landing, LLC
1275 Glory Road
Green Bay, WI 54304

D & N ACQUISITION, INC.
2721 Manitowoc Road
Green Bay, WI 54311-6631

Plaintiffs,

Each individually and on behalf of others
similarly situated.

vs.

COSTCO WHOLESALE CORPORATION,
c/o CT Corporation System, Reg. Agent
301 S. Bedford St, Ste 1
Madison, WI 53703

Defendant.

SUMMONS

THE STATE OF WISCONSIN TO: All Named Defendants.

You are hereby notified that the above-named Plaintiffs has filed a lawsuit or other legal action against you. The Complaint, which is attached, states the nature and basis of the legal action. Within forty-five (45) days after receiving this Summons, you must respond to the Complaint with a written Answer, as that term is defined in Chapter 802 of the Wisconsin Statutes. The Court may reject or disregard an Answer that does not follow the statutory requirements.

The Answer must be sent or delivered to the Court, whose address is Brown County Circuit Court, 100 S. Jefferson Street, Green Bay, WI 54301, and to Menn Law Firm, Ltd., attention

Patrick J. Coffey and William P. McKinley, whose address is 2501 E. Enterprise Ave, PO Box 785, Appleton, WI 54912. You may have an attorney help or represent you.

If you do not provide a proper Answer within forty-five (45) days, the Court may grant judgment against you for the award of money or other legal action in the Complaint, and you may lose your right to object to anything that is or may be incorrect in the Complaint. A judgment may be enforced as provided by law. A judgment awarding money may become a lien against any real estate you own now or in the future, and may also be enforced by garnishment or seizure of property.

Dated this 30th day of March, 2020

MENN LAW FIRM, LTD.
Attorneys for Plaintiffs

By: /s/ William P. McKinley
William P. McKinley | S.B.N. 1072959
Patrick J. Coffey | S.B.N. 1023953

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Each individually and on behalf of others
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vs.

COSTCO WHOLESALE CORPORATION,
c/o CT Corporation System, Reg. Agent
301 S. Bedford St, Ste 1
Madison, WI 53703

Defendant.

CLASS ACTION COMPLAINT

NOW COME the above named Plaintiffs, Pit Row, Inc., (hereinafter collectively referred to as "Plaintiffs"), on behalf of themselves and those similarly situated, by and through their attorneys, MENN LAW FIRM, LTD., and as and for their Class Action Complaint against the Defendant, allege and show to the Court as follows:

THE PARTIES

1. The Plaintiff, Pit Row, Inc., is a Wisconsin corporation that owns and operates a retail gas station at 2030 University Avenue, Green Bay, Wisconsin 54311, known as Pit Row Shell.

2. The Plaintiff, Nicolet Gas, Inc., is a Wisconsin corporation that owns and operates a retail gas station at 2260 Nicolet Drive, Green Bay, WI 54311, known as University BP.

3. The Plaintiff, S & K Food Mart, Inc., is a Wisconsin corporation that owns and operates a retail gas station at 1480 Lime Kiln Road, Green Bay, WI 54311, known as Willow Creek BP.

4. The Plaintiff, Bellevue Gas, Inc., is a Wisconsin corporation that owns and operates a retail gas station at 1356 Bellevue Street, Green Bay, WI 54311, known as Express Convenience Center.

5. The Plaintiff, Everest Mart, Inc., is a Wisconsin corporation that owns and operates a retail gas station at 1501 S. Webster Ave., Green Bay, WI 54301, known as Webster Shell.

6. The Plaintiff, Badimaalika, LLC, is a Wisconsin limited liability company that owns and operates a retail gas station at 1465 University Ave., Green Bay, WI 54302, known as Green Bay Mobil Mart.

7. The Plaintiff, Tikapur Petroleum, LLC, is a Wisconsin limited liability company that owns and operates a retail gas stations at 2409 Monroe Road, De Pere, WI 54115, known as Monroe Road BP, and 2115 Main Street, Green Bay, WI 54302, known as Pick n Roll BP.

8. The Plaintiff, Singhs C Store 2, Inc., is a Wisconsin corporation that owns and operates a retail gas station at 952 W. Mason Street, Green Bay, WI 54303, known as the Mason Street Marathon.

9. The Plaintiff, Ran-Di Enterprises, LLC, is a Wisconsin limited liability company that owns and operates a retail gas station located at 612 S. Military Ave., Green Bay, WI 54304, known as Military BP.

10. The Plaintiff, Jaguar Station, LLC, is a Wisconsin limited liability company that owns and operates a retail gas station located at 2300 S. Ridge Road, Green Bay, WI 54304, known as Jaguar Shell.

11. The Plaintiff, GCS OPERATIONS, LLC, is a Wisconsin limited liability company whose principal office is located at 1275 Glory Road, Green Bay, WI 54304 that owns and operates multiple retail gas stations in the Green Bay area, including 2011 Allouez Avenue, Green Bay, WI (Bellevue Shell), 2646 Manitowoc Road, Green Bay, WI (Bellevue Crossing Shell), 1010 S. Broadway Street, De Pere, WI 54115 (Riverside Shell), and 3691 Monroe Road, De Pere, WI (Ledgeview Shell), among others.

12. The Plaintiff, GCS Landing, LLC, is a Wisconsin limited liability company that owns and operates a retail gas station located at 3630 Riverside Drive, Green Bay, WI, known as GCS Landing Shell.

13. The Plaintiff, D & N Acquisition, Inc., is a Wisconsin business corporation that owns and operates a retail gas station located at 2721 Manitowoc Road, Green Bay WI 54311, known as Lou's One Stop BP.

14. The business conducted at each of the above named Plaintiffs' retail gas stations identified above include, among other things, the sale of regular unleaded ("RNL") motor vehicle fuel.

15. The Defendant, Costco Wholesale Corporation (hereinafter "Costco") is a foreign corporation registered to do business in Wisconsin, which has its principal offices located at 999

Lake Drive, Issaquah, WA, 98027. Costco has named CT Corporation System as its Registered Agent for Wisconsin and provided a Wisconsin Registered Agent office address of 301 S. Bedford Street, Ste. 1, Madison, WI 53703.

16. Costco owns and operates a retail gas station located at 2355 Costco Way, Bellevue, WI 54311, at which it sells RNL fuel.

JURISDICTION AND VENUE

17. This Court has jurisdiction over this action pursuant to Wis. Stat. Sec. 801.05(3), as the wrongdoing alleged herein was committed by Costco in the State of Wisconsin.

18. Venue is proper in Brown County because Costco owns and operates the gas station at issue in Brown County, does substantial business in Brown County, and the illegal pricing practices complained of were directed to consumers in Brown County.

ALLEGATIONS APPLICABLE TO ALL PLAINTIFFS

19. The policy of the Unfair Sales Act is set forth in Wis. Stat. §100.30(1), which provides that selling merchandise below cost is an unfair method of competition that causes commercial disruption, bankruptcy among merchants, unemployment, and economic depression.

20. Wisconsin's Unfair Sales Act, Wis. Stat. § 100.30, prohibits certain pricing practices, including the act of pricing motor vehicle fuel below the "cost to retailer," which is the average posted terminal price plus freight, inspection fee, taxes and a mark-up of 9.18%.

21. Costco sold fuel below the "cost to retailer" and violated the Unfair Sales Act on at least one hundred (100) days between the period October 1, 2019 through the date of this filing, with respect to the pricing of RNL fuel at its Bellevue location.

22. Attached hereto as Exhibit "A" is a breakdown of each day the Plaintiffs maintain Costco was pricing RNL fuel in violation of the Unfair Sales Act.

23. Upon information and belief, there are additional days where Costco violated the Unfair Sales Act, and based upon discovery, this Complaint may be amended to insert those additional days.

24. No exceptions to the Act apply to Costco's conduct, and Costco is not immune from suit as it has failed to set its price in good faith to match the existing price of its competitors.

25. The Plaintiffs and Costco are direct competitors.

26. The Plaintiffs are obligated to abide by Wis. Stat. §100.30, and are placed at a competitive disadvantage when a competitor fails to abide by the terms and conditions of the Act.

27. Costco is a "price leader" in the Green Bay motor vehicle fuel market, meaning it is often the first gas station to lower its RNL price.

28. None of the Plaintiffs are "price leaders," but instead are "followers," meaning they lower their prices to match the price leaders in the market, including Costco.

29. Each Plaintiff is keenly aware of Costco's RNL pricing, as Costco's pricing decisions have an effect on the entire Green Bay market, whether directly or indirectly.

30. Costco sold RNL fuel at a cost less than that allowed pursuant to Wis. Stat. §100.30, with the intent or effect of inducing others to purchase motor vehicle fuel from Costco or with the intent or effect of unfairly diverting trade from the Plaintiffs.

31. Costco's act of pricing RNL in contravention of the Unfair Sales Act threatened each Plaintiff with harm, because in doing so, each Plaintiff was forced (directly or indirectly) to either lower its price to match Costco's illegally established price, causing an increased risk of lost profit margin, or was left to instead choose to keep its RNL price at a higher amount, causing

a reduction in customer volume, because customers would choose to shop at Costco or a competitor of Costco who lowered its price to match.

32. Each day Costco sold RNL fuel below the statutorily allowed price, constitutes a distinct violation of the Unfair Sales Act.

33. Pursuant to Wis. Stat. § 100.30(5m), the Plaintiffs are entitled to statutory damages against Costco in an amount of Two Thousand Dollars (\$2,000.00) for each Plaintiff multiplied by each day of continued violation of Wis. Stat. §100.30.

34. Costco has priced RNL fuel below the minimum allowed by Wis. Stat. §100.30 for at least one hundred (100) days between October 2, 2019 and February 22, 2020, has, therefore, committed at least 100 separate violations.

35. Each Plaintiff is therefore entitled to a money judgment in the amount of \$200,000.00, for a combined amount of \$2,600,000.00.

36. Pursuant to Wis. Stat. §100.30(5m), the Plaintiffs are also entitled to costs, including accounting fees and actual attorney's fees incurred as a result of the violations and this litigation.

37. Upon information and belief, Costco continues to violate Wis. Stat. §100.30 and the Plaintiffs are, therefore, entitled to permanent injunctive relief enjoining Costco from selling motor vehicle fuel for less than the minimum selling price allowed under Wis. Stat. §100.30 subject to the exceptions contained within that Statute.

CLASS ACTION ALLEGATIONS

38. The Plaintiffs bring their claims on behalf of a class, pursuant to Wis. Stat. § 803.08, consisting of (a) all RNL fuel retailers (b) who were competitor's of Costco's Bellevue gas station; (b) whose price of RNL fuel was at or above Costco's RNL fuel price on the dates

subject to this lawsuit.

39. Upon information and belief, the Class is so numerous that joinder of all members of the Class is impracticable. While the exact number of Class members is presently unknown and can only be ascertained through discovery, the Plaintiffs believe that there are hundreds of class members based upon the fact that Costco has previously argued in court proceedings that any gas station located near a Bellevue Costco customer or along a route traveled by a Bellevue Costco customer is a “competitor” of the Bellevue Costco gas station, regardless of that competitor’s geographic proximity to Bellevue, Wisconsin.

40. Using Costco’s “heat maps”, this could include hundreds of gas stations in Northeast Wisconsin and beyond.

41. The Plaintiffs’ claims are typical of the claims of the proposed Class, and the Plaintiffs will fairly and adequately represent and protect the interests of the proposed Class.

42. The Plaintiffs do not have any interests antagonistic to those of the proposed Class.

43. The Plaintiffs have retained competent counsel experienced in litigating matters having to do with the Unfair Sales Act.

44. The questions of law and fact common to the proposed Class members, some of which are set out above, predominate over any questions affecting only individual Class members.

45. A class action is superior to other available methods for the fair and efficient adjudication of this controversy, as the expense and burden of individual litigation would make it impracticable or impossible for proposed Class members to prosecute their claims individually.

46. The trial and the litigation of the Plaintiffs’ claims is manageable.

47. Additionally, certification of a class is appropriate because:
- a. The individual class members may not be aware of their legal rights under the Unfair Sales Act;
 - b. Concentration of the litigation concerning this matter in this Court is desirable;
 - c. The claims of the representative Plaintiffs are typical of the claims of the class; and
 - d. A failure of justice will result from the absence of a class action.

WHEREFORE, the Plaintiffs demand judgment in their favor against Costco, as follows:

- A. Damages to each of the Plaintiffs in the amount of Two Thousand and 00/100 Dollars (\$2,000.00) per day for each day Costco violated the Act;
- B. Certification of a class;
- C. Damages to each certified class member in the amount of Two Thousand and 00/100 Dollars (\$2,000.00) per day for each day Costco violated the Act;
- D. For reasonable attorney's fees, together with costs pursuant to Wis. Stat. §100.30(5m);
- E. For any accounting fees incurred by the Plaintiffs as a result of the violations of the Statute, pursuant to Wis. Stat. §100.30(5m);
- F. Granting temporary and permanent injunctive relief enjoining Costco from selling motor vehicle fuel for less than the minimum selling price subject to the exceptions contained within Wis. Stat. §100.30(6);
- G. Interest, at the maximum legal rate; and
- H. For such other and further relief as the Court deems just and equitable.

Dated this 30th day of March, 2020

MENN LAW FIRM, LTD.
Attorneys for Plaintiffs

By: /s/ William P. McKinley
William P. McKinley | S.B.N. 1072959
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EXHIBIT "A"

Violation #	DATE(S)	Costco Posted Illegal Street Price
1	10-2-19	\$2.34
2	10-3-19	\$2.34
3	10-4-19	\$2.34
4	10-5-19	\$2.34
5	10-6-19	\$2.34
6	10-7-19	\$2.34
7	10-8-19	\$2.34
8	10-9-19	\$2.34
9	10-10-19	\$2.34
10	10-11-19	\$2.34
11	10-12-19	\$2.34
12	10-13-19	\$2.34
13	10-14-19	\$2.34
14	10-15-19	\$2.33
15	10-24-19	\$2.27
16	10-26-19	\$2.27
17	10-27-19	\$2.27
18	10-29-19	\$2.22
19	10-30-19	\$2.22
20	10-31-19	\$2.22
21	11-1-19	\$2.22
22	11-2-19	\$2.22
23	11-3-19	\$2.22
24	11-4-19	\$2.22
25	11-5-19	\$2.22
26	11-6-19	\$2.22
27	11-12-19	\$2.15
28	11-13-19	\$2.15
29	11-14-19	\$2.15
30	11-15-19	\$2.15
31	11-16-19	\$2.15
32	11-17-19	\$2.15
33	11-18-19	\$2.15
34	11-19-19	\$2.15
35	11-20-19	\$2.15
36	11-21-19	\$2.15
37	11-22-19	\$2.15
38	11-23-19	\$2.15
39	11-24-19	\$2.15
40	11-25-19	\$2.15
41	11-26-19	\$2.15
42	11-27-19	\$2.15
43	11-28-19	\$2.15
44	11-29-19	\$2.15

45	11-30-19	\$2.15
46	12-1-19	\$2.15
47	12-2-19	\$2.15
48	12-3-19	\$2.15
49	12-4-19	\$2.15
50	12-5-19	\$2.15
51	12-6-19	\$2.15
52	12-7-19	\$2.15
53	12-8-19	\$2.15
54	12-9-19	\$2.15
55	12-10-19	\$2.15
56	12-11-19	\$2.15
57	12-13-19	\$2.15
58	12-14-19	\$2.15
59	12-15-19	\$2.15
60	12-16-19	\$2.15
61	12-17-19	\$2.15
62	12-18-19	\$2.15
63	12-19-19	\$2.15
64	1-21-20	\$2.18
65	1-22-20	\$2.18
66	1-23-20	\$2.18
67	1-24-20	\$2.18
68	1-25-20	\$2.18
69	1-26-20	\$2.18
70	1-27-20	\$2.18
71	1-28-20	\$2.18
72	1-29-20	\$2.18
73	1-30-20	\$2.18
74	1-31-20	\$2.18
75	2-1-19	\$2.18
76	2-2-20	\$2.18
77	2-3-20	\$2.18
78	2-4-20	\$2.17
79	2-5-20	\$2.17
80	2-6-20	\$2.17
81	2-7-20	\$2.17
82	2-8-20	\$2.17
83	2-9-20	\$2.17
84	2-10-20	\$2.17
85	2-11-20	\$2.17
86	2-12-20	\$2.17
87	2-13-20	\$2.14
88	2-14-20	\$2.14
89	2-15-20	\$2.14
90	2-16-20	\$2.14
91	2-17-20	\$2.14
92	2-18-20	\$2.14
93	2-19-20	\$2.14

94	2-20-20	\$2.14
95	2-21-20	\$2.14
96	2-22-20	\$2.14
97	2-23-20	\$2.14
98	2-24-20	\$2.14
99	2-25-20	\$2.14
100	2-26-20	\$2.14